

**APPENDIX—C
FINAL RULES**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54 – UNIVERSAL SERVICE

Subpart F – Universal Service Support for Schools and Libraries

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214 and 254 unless otherwise noted.

2. Add § 54.520 to subpart F to read as follows:

§ 54.520 Children’s Internet Protection Act certifications required from recipients of discounts under the federal universal service support mechanism for schools and libraries.

(a) Definitions.

(1) School. For the purposes of the certification requirements of this rule, school means school, school district, local education agency or other authority responsible for administration of a school.

(2) Library. For the purposes of the certification requirements of this rule, library means library, library board or authority responsible for administration of a library.

(3) Billed Entity. Billed entity is defined in § 54.500. In the case of a consortium, the billed entity is the lead member of the consortium.

(4) Statutory Definitions. The terms “minor,” “obscene,” “child pornography,” “harmful to minors” and “technology protection measure” as used in this section, are defined in the Children’s Internet Protection Act § 1721(c).

(b) Who is required to make certifications.

(1) A school or library that receives discounts for Internet access and internal connections services under the federal universal service support mechanism for schools and libraries, must make such certifications as described in subsection (c). The certifications required and described in subsection (c) must be made in each funding year.

(2) Schools and libraries that only receive discounts for telecommunications services under the federal universal service support mechanism for schools and libraries are not subject to the requirements 47 U.S.C. §254(h) and (l), but must indicate, pursuant

to the certification requirements in subsection (c), that they only receive discounts for telecommunications services.

(c) Certifications required under 47 U.S.C. § 254(h) and (l).

(1) Schools. The billed entity for a school that receives discounts for Internet access or internal connections must certify on FCC Form 486 that an Internet safety policy is being enforced. If the school is an eligible member of a consortium but is not the billed entity for the consortium, the school must certify instead on FCC Form 479 (“Certification to Consortium Leader of Compliance with the Children’s Internet Protection Act”) that an Internet safety policy is being enforced.

(i) The Internet safety policy adopted and enforced pursuant to 47 U.S.C. § 254(h) must include:

(A) A technology protection measure that protects against Internet access by both adults and minors to visual depictions that are obscene, child pornography, or, with respect to use of the computers by minors, harmful to minors. This Internet safety policy must also include monitoring the online activities of minors.

(ii) The Internet safety policy adopted and enforced pursuant to 47 U.S.C. § 254(l) must address all of the following issues:

(A) access by minors to inappropriate matter on the Internet and World Wide Web,

(B) the safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications,

(C) unauthorized access, including so-called “hacking,” and other unlawful activities by minors online;

(D) unauthorized disclosure, use, and dissemination of personal information regarding minors; and

(E) measures designed to restrict minors’ access to materials harmful to minors.

(iii) A school must satisfy its obligations to make certifications by making one of the following certifications required by subsection (c)(1) on FCC Form 486:

(A) The recipient(s) of service represented in the Funding Request Number(s) on this Form 486 has (have) complied with the

requirements of the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l).

(B) Pursuant to the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l), the recipient(s) of service represented in the Funding Request Number(s) on this Form 486 is (are) undertaking such actions, including any necessary procurement procedures, to comply with the requirements of CIPA for the next funding year, but has (have) not completed all requirements of CIPA for this funding year.

(C) The Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l), does not apply because the recipient(s) of service represented in the Funding Request Number(s) on this Form 486 is (are) receiving discount services only for telecommunications services.

(2) Libraries. The billed entity for a library that receives discounts for Internet access and internal connections must certify, on FCC Form 486, that an Internet safety policy is being enforced. If the library is an eligible member of a consortium but is not the billed entity for the consortium, the library must instead certify on FCC Form 479 ("Certification to Consortium Leader of Compliance with the Children's Internet Protection Act") that an Internet safety policy is being enforced.

(i) The Internet safety policy adopted and enforced pursuant to 47 U.S.C. § 254 (h) must include a technology protection measure that protects against Internet access by both adults and minors to visual depictions that are obscene, child pornography, or, with respect to use of the computers by minors, harmful to minors.

(ii) The Internet safety policy adopted and enforced pursuant to 47 U.S.C. § 254(l) must address all of the following issues:

(A) access by minors to inappropriate matter on the Internet and World Wide Web;

(B) the safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;

(C) unauthorized access, including so-called "hacking," and other unlawful activities by minors online;

(D) unauthorized disclosure, use, and dissemination of personal information regarding minors; and

(E) measures designed to restrict minors' access to materials harmful to minors.

(iii) A library must satisfy its obligations to make certifications by making one of the following certifications required by subsection (c)(2) on FCC Form 486:

(A) The recipient(s) of service represented in the Funding Request Number(s) on this Form 486 has (have) complied with the requirements of the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l).

(B) Pursuant to the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l), the recipient(s) of service represented in the Funding Request Number(s) on this Form 486 is (are) undertaking such actions, including any necessary procurement procedures, to comply with the requirements of CIPA for the next funding year, but has (have) not completed all requirements of CIPA for this funding year.

(C) The Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l), does not apply because the recipient(s) of service represented in the Funding Request Number(s) on this Form 486 is (are) receiving discount services only for telecommunications services.

(3) Certifications required from consortia members and billed entities for consortia.

(i) The billed entity of a consortium, as defined in subsection (a)(3) other than one requesting only discounts on telecommunications services for consortium members, must collect from the authority for each of its school and library members, one of the following signed certifications on FCC Form 479 ("Certification to Consortium Leader of Compliance with the Children's Internet Protection Act"), which must be submitted to the billed entity consistent with subpart (c)(1) or subpart (c)(2) above:

(A) The recipient(s) of service under my administrative authority and represented in the Funding Request Number(s) for which you have requested or received Funding Commitments has (have) complied with the requirements of the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l).

(B) Pursuant to the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l), the recipient(s) of service under my administrative authority and represented in the Funding Request Number(s) for which you have requested or received Funding Commitments is (are) undertaking such actions, including any necessary procurement procedures, to comply with the requirements of CIPA for the

next funding year, but has (have) not completed all requirements of CIPA for this funding year.

(C) The Children’s Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l), does not apply because the recipient(s) of service under my administrative authority and represented in the Funding Request Number(s) for which you have requested or received Funding Commitments is (are) receiving discount services only for telecommunications services; and

(ii) The billed entity for a consortium, as defined in paragraph (a)(3), must make one of the following two certifications on FCC Form 486: (1) “I certify as the Billed Entity for the consortium that I have collected duly completed and signed Forms 479 from all eligible members of the consortium.”; or “(2) I certify as the Billed Entity for the consortium that the only services that I have been approved for discounts under the universal service support mechanism on behalf of eligible members of the consortium are telecommunications services, and therefore the requirements of the Children’s Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l), do not apply.”; and

(iii) The billed entity for a consortium, as defined in paragraph (a)(3), who filed a FCC Form 471 as a “consortium application” and who is also a recipient of services as a member of that consortium must select one of the certifications under subsection (c)(3)(i) on FCC Form 486.

(d) Failure to provide certifications.

(1) Schools and Libraries. A school or library that knowingly fails to submit certifications as required by this section, shall not be eligible for discount services under the federal universal service support mechanism for schools and libraries until such certifications are submitted.

(2) Consortia. A billed entity’s knowing failure to collect the required certifications from its eligible school and library members or knowing failure to certify that it collected the required certifications shall render the entire consortium ineligible for discounts under the federal universal service support mechanism for school and libraries.

(3) Reestablishing eligibility. At any time, a school or library deemed ineligible for discount services under the federal universal service support mechanism for schools and libraries because of failure to submit certifications required by this section, may reestablish eligibility for discounts by providing the required certifications to the Administrator and the Commission.

(e) Failure to comply with the certifications.

(1) Schools and Libraries. A school or library that knowingly fails to ensure the use of computers in accordance with the certifications required by this section, must reimburse any funds and discounts received under the federal universal service support mechanism for schools and libraries for the period in which there was noncompliance.

(2) Consortia. In the case of consortium applications, the eligibility for discounts of consortium members who ensure the use of computers in accordance with the certification requirements of this section shall not be affected by the failure of other school or library consortium members to ensure the use of computers in accordance with such requirements.

(3) Reestablishing compliance. At any time, a school or library deemed ineligible for discounts under the federal universal service support mechanism for schools and libraries for failure to ensure the use of computers in accordance with the certification requirements of this section and that has been directed to reimburse the program for discounts received during the period of noncompliance, may reestablish compliance by ensuring the use of its computers in accordance with the certification requirements under this section. Upon submittal to the Commission of a certification or other appropriate evidence of such remedy, the school or library shall be eligible for discounts under the universal service mechanism.

(f) Waivers based on state or local procurement rules and regulations and competitive bidding requirements.

Waivers shall be granted to schools and libraries when the authority responsible for making the certifications required by this section, cannot make the required certifications because its state or local procurement rules or regulations or competitive bidding requirements, prevent the making of the certification otherwise required. The waiver shall be granted upon the provision, by the authority responsible for making the certifications on behalf of schools or libraries, that the schools or libraries will be brought into compliance with the requirements of this section, before the start of the third program year after April 20, 2001 in which the school or library is applying for funds under this title.

(g) Funding year certification deadlines.

(1) Funding Year 4. For Funding Year 4, billed entities shall provide one of the certifications required under subsection (c)(1), (c)(2) or (c)(3) to the Administrator on an FCC Form 486 postmarked no later than October 28, 2001.

(2) Funding Year 5 and subsequent funding years. For Funding Year 5 and for subsequent funding years, billed entities shall provide one of the certifications required under subsection (c)(1), (c)(2) or (c)(3) in accordance with the existing program guidelines established by the Administrator.